

The dual origin of Minnesota /

THE DUAL ORIGIN OF MINNESOTA.* BY SAMUEL M. DAVIS.

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It is the purpose of this paper to trace the origin and source of the territory now comprised within the boundary of the state of Minnesota. This state occupies the unique position of being the only state in the Union which acquired its territory from the two largest accessions of land to the United States in the early history of this government. I refer to the cession of the Northwest Territory by Great Britain in 1783 and the Louisiana Purchase in 1803. About twenty-nine thousand square miles of territory, including all east of the Mississippi which is now comprised within the boundary of the state, originated in the cession by the treaty with Great Britain in 1783. The remaining part, about fifty-five thousand square miles, was secured from the territory originally purchased from France in 1803. It is my object to sketch the main features connecting these two great treaties of accession of territory, both in relation to the boundary of the territory acquired and also with reference to the government provided for them after the territory was acquired.

CESSION OF THE NORTHWEST TERRITORY.

The Revolutionary War, which began April 19th, 1775, was closed by three separate treaties of peace. The United States and France conducted simultaneous negotiations with different English Commissioners, with the understanding that the preliminaries should be signed the same day. Dr. Franklin wrote to Vergennes on the 29th of November, 1782, that the American articles were already agreed upon and that he hoped to lay a copy of them before his Excellency the following day. 520 They were duly communicated, with the exception of a single secret article, but the French diplomat was astonished and mortified to find that they were already signed and therefore binding so far as the commissioners

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could make them so. The diplomatic game for despoiling the young republic of one half of her territorial heritage was effectually defeated. The French diplomatist reproved Franklin for the course which he and his associates had followed. Franklin replied as best he could, at the same time admitting that nothing more than a slight breach of politeness had been committed. The American people were at first disposed to censure the commissioners, but so anxious were all classes for peace and so much more favorable were the terms obtained than had been expected, that the expressions of dissatisfaction gave way to expressions of gratification and delight. The preamble to the treaty contained the saving clause that it should not go into effect until France and England came to an understanding, which fact Franklin diplomatically pressed upon the attention of the nettled Vergennes. The final treaty of peace between the United States and England was signed September 3rd, 1783. By this treaty Great Britain acknowledged the United States to be free, sovereign, and independent states, and relinquished all claims to the government, proprietary and territorial right of the same and every part thereof. The boundaries assigned proved to be more satisfactory than those which had been proposed in Congress in 1779.

It is not possible to divide among Benjamin Franklin, John Adams, and John Jay, the exact honor due each of saving the West to their country. To the man, however, who goes through the original documents, it would seem that we are not least indebted to John Jay for his distinguished services in this connection.

Great Britain's claim to the Northwest Territory was founded both on conquest and on the charters of the original colonies. Great Britain claimed not only all the land in the western country which was not expressly included in the charters and governments, and all the Mississippi, but also all such lands within them as remained ungranted by the king of Great Britain. England was slow to surrender so much of the Northwest as remained in her hands at the close of the war. Her refusal to surrender this territory was positive proof of the reluctance with which she consented to the northwestern 521 boundaries. The boundaries negotiated by the treaty were much discussed and every proposition with reference to a different boundary had been considered. Mr. Adams tells us that one of

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these lines was the forty-fifth parallel north of the St. Lawrence river, and the other the line of the middle of the lakes. The British ministers, owing to their desire to give Canada a frontage on the four lakes, preferred the water boundary and Chose the line which left the Northwest intact. Their decision was most fortunate for us. If the forty-fifth parallel had become the boundary, nearly half of Lakes Huron and Michigan and of the states of Michigan and Wisconsin, and a part of Minnesota, would have fallen to Great Britain. The boundaries finally decided upon were the middle of the chain of lakes on the north, and the Mississippi river on the west.

There is reason to think that England did not believe the young republic would be successful in maintaining an independent government, and her tardy transfer of the Northwest Territory to the United States was caused by a determination to share in the expected spoil that would result from the failure of our early government. The fact is that neither England nor Spain looked upon the treaty at Paris as finally settling the destiny of the country west of the Allegheny mountains. The war of 1812 no doubt revived England's hopes of again recovering the Northwest; and the efforts of Tecumseh to stay the oncoming tide of white population, and Hull's surrender of the Michigan territory, fanned these hopes into a bright flame. Harrison's success on the Maumee, and Perry's victory on Lake Erie, finally dashed her hopes to the ground. Only three of the thirty-two years between 1783 and 1815 were years of open war, yet for one half of the whole time the British flag was flying on the American side of the boundary line. The final destiny of the Northwest was not assured in its fullest sense until the treaty of Ghent.

The question of boundaries was, by the treaty of Paris, settled upon paper; but the actual boundaries were, for a considerable length of time, undetermined. It was not a foregone conclusion that the West should be delivered to the United States. The retention of the Northwest by Great Britain would have been a serious mischance in case subsequent events had turned out differently. The longer one considers the question, the more will he discover reasons for congratulation 522 that the logic of events gave us our proper boundaries at the close of the War of Independence,* and that we were not left to renew

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the struggle upon that question in after years with other European nations. The boundaries as determined by the diplomats at Paris, were, no doubt, fixed in good faith: but they had not only to be drawn upon paper, but also traced through vast wildernesses, uninhabited and unexplored. It was natural therefore that some of the lines were found impracticable. Some of the disputes that arose afterward had, however, other sources than ignorance of geography. A serious doubt arose as to the practicability of reaching the Mississippi by a due west line from the northwest point of the Lake of the Woods.† Jay's treaty, in 1794, therefore provided that measures should be taken in concert to survey the upper Mississippi, and in case the due west line was found impracticable, it was further provided that "the two parties

* Article 2 of the Treaty of Paris reads thus: "And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared that the following are and shall be their boundaries. namely: From the northwest angle of Nova Scotia, namely, that angle which is formed by a line drawn due north from the source of St. Croix River to the Highlands; along the said Highlands, which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the northwesternmost head of Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude: from thence by a line due west on said latitude, until it strikes the River Iroquois or Cataraquy [that is, the St. Lawrence]; thence along the middle of said river into Lake Ontario, through the middle of said lake until it strikes the communication by water between that lake and Lake Erie; thence along the middle of said communication into Lake Erie, through the middle of said lake until it arrives at the water communication between that lake and Lake Huron; thence along the middle of said water communication into the Lake Huron; thence through the middle of said lake to the water communication between that lake and Lake Superior; thence through Lake Superior northward of the Isles Royal and Phelipeaux, to the Long Lake; thence through the middle of said Long Lake, and the water communication between it and the Lake of the Woods, to the said Lake of the Woods: thence through the said lake to the most northwestern point thereof, and

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from thence on a due west course to the River Mississippi; thence by a line to be drawn along the middle of the said River Mississippi until it shall intersect the northernmost part of the thirty-first degree of north latitude. South. by a line to be drawn due east from the determination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the River Apalachicola or Catahouche; thence along the middle thereof to its Junction with the Flint River; thence straight to the head of St. Mary's River; and thence down along the middle of St. Mary's River to the Atlantic Ocean. East, by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid Highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence; comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia, on the one part, and East Florida, on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean; excepting such Islands as now are, or heretofore have been, within the limits of the said province of Nova Scotia."

† The maps of the period put down the course of the river above the forty-fifth parallel as "the Mississippi by conjecture."

523 will thereupon proceed, by amicable negotiation, to regulate the boundary line in that quarter." This boundary was not fixed till more than twenty years later.

A convention was signed in London by the representatives of the Two powers on May 12th, 1863, which contained arrangements for determining the boundary from the Lake of the Woods to the Mississippi. At about the same time the treaty for the cession of Louisiana to the United States was signed. When the London treaty came before the Senate the argument was made that the Louisiana Purchase would affect the line from the Lake of the Woods to the Mississippi. Accordingly the Senate struck out the article, and this caused the whole treaty to fall through. By the Louisiana Purchase we succeeded to all rights, as respects Louisiana, that had belonged to Spain or France, and this carried

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us north to the British possessions and west of the Mississippi river. On October 20th, 1818, the United States and England agreed to a convention which settled the Lake of the Woods controversy and established the boundary between the two countries as far as the Rocky mountains.*

* "It is agreed that a line drawn from the most northwestern point of the Lake of the Woods, along the forty-ninth parallel of north latitude, or, If the said point shall not be in, the forty-ninth parallel of north latitude, then that a line drawn from the said point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection due west along and with the said parallel, shall be the line of demarcation between the territories of the United States and those of his Britannic Majesty, and that the said line shall form the northern boundary of the said territories of the United States, and the southern boundary of the territories of his Britannic Majesty, from the Lake of the Woods to the Stony Mountains."

This provision as to the boundary, together with the facts of geography, explains the singular projection of our northern boundary on the west side of the Lake of the Woods.

The remaining boundary, from the intersection of the St. Lawrence and the forty-fifth parallel north to the foot of the St. Mary's river, was established in 1823, by a joint commission under the treaty of Ghent; and from the foot of the St. Mary's to the most northwestern point of the Lake of the Woods, by the Webster-Ashburton treaty in 1842.

The western boundary of the Northwest Territory was the Mississippi river to its source. All that part of Minnesota east of the Mississippi river was taken from the original Northwest Territory. From the source of the Mississippi river in Lake Itasca the line was drawn due north by 95 degrees and 12 minutes west longitude from Greenwich to a point known as the northwestern point of the Lake of the Woods. This line 524 passes through the western part of the southern half of Red Lake. The territory now included in Minnesota east of this

line. and east of the Mississippi river, comprises about one third of the state. The balance of the present state of Minnesota was derived from the Louisiana Purchase.

THE ORDINANCE OF 1787.

In the early days the eastern portion of Minnesota territory came under the jurisdiction of the Ordinance of 1787. The vital point in the history of the entire Northwest was the passage of this ordinance by Congress. The first question that had to be decided was in regard to the ownership of the territory ceded by Great Britain. This decision was made in Congress by an agreement of the representatives of the different states. Seven states, Massachusetts, Connecticut, Virginia, Georgia, New York, and both the Carolinas, claimed portions of this territory. The claim of New York was based upon the ground that she was the heir of the Iroquois Indians. The other six states based their claims on various charters. None of these claims were substantial or founded on very tenable ground.

The first plan for a solution of the problem of sovereignty over the western lands was brought forward by Maryland on October 15th, 1777. This was proposed as an article of amendment to the articles of confederation then under discussion. That amendment read as follows: "That the United States, in Congress assembled, shall have the sole and exclusive right and power to ascertain and fix the western boundary of such states as claim to the Mississippi or South Sea, and lay out the land beyond the boundary, so ascertained, into separate and independent states, from time to time, as the numbers and circumstances of the people thereof may require." The amendment failed, and one of an exactly opposite character was passed, which put a prohibition on the United States government so that it should not deprive any state of any territory. The principle contained in the Maryland amendment, however, was a germinant idea which afterwards came to a fuller realization in the Ordinance of 1787. The Maryland proviso contained two propositions, an end to be reached, and a means of reaching it. Maryland was one of the states that did not have any claim to territory outside of her own limits. There were at that time two classes of states, known as the landed states and the states without

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any claim. Maryland was the pioneer 525 in bringing about a solution of the question for nationalizing the western land. She showed great hesitation in joining the confederation as long as the question was unsettled, and insisted that the titles of the claimant states were invalid, that there was no need of asking them to cede what they did not possess, and that the West should be declared outright a part of the Federal domain. The claimant states subsequently ceded their claims, Connecticut being the last, in 1786, to cede all her rights. The non-claimant states thus obtained their object, and the lands included in the Northwest Territory became part of the Federal domain and were nationalized so far as they could be under the Confederation. It was not until the Constitution was adopted that there was a national treasury into which the proceeds from the sale of lands could be turned.

It remained for Congress, under the conditions of the Ordinance of 1787, to determine the terms on which settlers could enter the new lands and on which new states shored spring up therein. This ordinance was one of the most important acts ever passed by an American legislative body, for it determined with great wisdom and statesmanship that the new Northwestern states should be free from the taint and curse of negro slavery, and that education should receive just and due attention, asserting thus a principle which later has found expression in its being aided by the grant of a part of the public lands.

The important features of the Ordinance were contained in the six articles of compact between the confederated states and the people and states of the territory, and were to be forever unchanged except by consent of both parties.* It is difficult

* Article I declares, "No person demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship or religious sentiments in the said territory."

Article II guarantees to the inhabitants the writ of *habeas corpus*, trial by jury, proportional representation in the legislature, and the privileges of the common law. The article concludes with the declaration that "no law ought ever to be made, or have force in the

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said territory, that shall, in any manner whatever, interfere with or affect private contracts or engagements *bona fide* and without fraud, previously formed.” A few weeks later this provision was copied into the Constitution of the United States, but this is its first appearance in a charter of government. It was an outgrowth of the troublous commercial condition of the country. Lee, who originally brought it forth, intended it as a stroke at paper money.

Article III contains these words, which should be emblazoned on the escutcheon of every American State: “Religion, morality, and knowledge, being necessary to good governmental and the happiness of mankind, schools and the means of education shall forever be encouraged.” It also says that good faith shall be observed toward the Indians.

Article IV ordained that “the said Territory, and the States which may be formed therein, shall forever remain a part of this Confederacy of the United States of America. subject to the Articles of Confederation, and to such alterations therein” as might be made. and to the laws effected by Congress. After some provisions in regard to taxation. it concludes as follows: “The navigable waters leading into the Mississippi and St. Lawrence, and the carrying-places between the same, shall be common highways and forever free, as well to the inhabitants of the said Territory as to be citizens of the United States. and those of any other States that may be admitted into the Confederacy, without any tax, impost or duty therefor.”

Article V provided for the division of the Territory into States, not less than three nor more than five and drew their boundary lines, subject to changes that Congress might afterwards make. A population of 60,000 free inhabitants should entitle any one of these states to admission, not “into the Union,” a phrase that came in with the Constitution, but “by its delegates into the Congress of the United States. on an equal footing with the original states in all respects whatever,” and to “form a permanent constitution and State government,” with the proviso that “the constitution so to be formed shall be republican, and in conformity to the principles contained in these articles.”

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Article VI dedicated the Northwest to freedom forever. "There shall be neither slavery nor involuntary servitude in the said Territory, otherwise than in punishment of crimes whereof the party shall have been duly convicted." But this prohibition was coupled with a proviso that stamps the whole article as a compromise: "Provided, always, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid."

526 to determine which of the provisions of the Ordinance were most important, but we cannot doubt that the one providing against the introduction of slavery was the greatest blow struck for freedom and against slavery in all our history, save only Lincoln's Emancipation Proclamation. This provision determined that in the final struggle the mighty and lusty young West should side with the right against the wrong. The fact is that the Ordinance of 1787 was so wide-reaching in its effects, was drawn in accordance with so high and lofty a morality and such far-seeing statesmanship, and was potent with such weal for the nation, that it will ever rank among the foremost of American state papers. "It marked out a definite line of orderly freedom along which the new States were to advance. It laid deep the foundation for that system of widespread public education so characteristic of the Republic and so essential to its healthy growth. It provided that complete religious freedom and equality which we now accept as part of the order of nature, but which were then unknown in any important European nation. It guaranteed the civil liberty of all citizens. It provided for an indissoluble Union, a Union which should grow until it could relentlessly crush nullification and secession; for the States founded under it were the creatures of the Nation, and were by the compact declared forever inseparable from it."*

* Theodore Roosevelt, *The Winning of the West*, vol, iii. p. 259.

The Ordinance of 1787 provided that not less than three and not more than five states should be carved out of the territory 527 thus acquired. It will be interesting for us to note,

in a later part of this paper, the circumstances and conditions which caused a part of this territory to be included in Minnesota after five states had already been admitted.

THE LOUISIANA PURCHASE.

The interest that attaches to the Louisiana Purchase is romantic as well as historic. The vast territory acquired by the United States in its early history laid the foundation for the subsequent greatness of the republic. The soil contained within this area had belonged successively by discovery and conquest to several of the powerful and aggressive nations of Europe. Zealous and pious missionaries traversed its length and breadth in the service of their earthly kings, and for the spiritual welfare of the aboriginal nations inhabiting its wide extended plains. Daring and adventurous explorers and discoverers ploughed its rivers with their canoes and laid open the vastness of its extent, and the magnificent resources and treasures of its wealth, like an open book. At length it was returned to the dominion of France. Napoleon was directing the affairs of the French nation, and was in need of funds to equip her armies for conquest. The United States stood ready to purchase Louisiana. Events were hurrying Napoleon to a conclusion.

On April 10th, 1803, Napoleon called to him two of his counsellors, Marbois and Decres, and addressed them in regard to the cession of Louisiana in that peculiar and vehement manner which he commonly manifested in political affairs. Napoleon's words are given by Marbois, in his History of Louisiana, as follows:

I know the full value of Louisiana, and I have been desirous of repairing the fault of the French negotiator who abandoned it in 1762. A few lines of a treaty have restored it to me, and I have scarcely recovered it when I must expect to lose it. But if it escapes from me, it shall one day cost dearer to those who oblige me to strip myself of it, than to those to whom I wish to deliver it. The English have successively taken from France, Canada, Cape Breton, Newfoundland, Nova Scotia, and the richest portions of Asia. They are engaged in exciting troubles in St. Domingo. They shall not have the Mississippi which

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they covet. Louisiana is nothing in comparison with their conquest in all parts of the globe, and yet the jealousy they feel at the restoration of this colony to the sovereignty of France acquaints me with their wishes to take possession of it, and it is thus that they will begin the war. They have twenty ships of war in the Gulf of Mexico; they sail over those seas as sovereigns, whilst our affairs in St. Domingo have been growing worse every day since the death of Leclerc. The conquest of Louisiana would be easy, if they only took the trouble to make a descent there. I have not a moment to lose in putting it out of their reach. I know not whether they are not already there. It is their usual course, and if I had been in their place, I would not have waited. I wish, if there is still time, to take away from them any idea that they may have of ever possessing that colony. I think of ceding it to the United States. I can scarcely say that I cede it to them, for it is not yet in our possession. If, however, I leave the least time to our enemies, I shall only transmit an empty title to those republicans whose friendship I seek. They only ask of me one town in Louisiana; but I already consider the colony as entirely lost, and it appears to me that in the hands of this growing power it will be more useful to the policy, and even to the commerce, of France, than if I should attempt to keep it.

The ministers thus addressed gave opposite opinions. Marbois declared that France should not hesitate to sacrifice what was about slipping away from her; that war with England was inevitable; that there were no means at hand to send garrisons to protect the province; that the colony was open to the English from the north by the great lakes, and if they should show themselves at the mouth of the Mississippi, New Orleans would immediately fall into their hands; that nothing was more certain than the fate of European colonies in America, and that the French had attempted to form colonies in several parts of the continent of America, but had in every instance failed; and that, in order to make the colony of Louisiana in any degree successful, it would be necessary to have all the labor performed by slaves, although slavery must be regarded as the most detestable scourge of the human race.

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Decres, on the other hand, gave an entirely opposite opinion. He pointed out that France was still at peace with England; that the colony had just been ceded to the French, and depended on the First Consul to preserve it; that to retain it would be of inestimable importance to commerce and to the maritime provinces; that France, deprived of her navy and her colonies, would be stripped of half her splendor, and a greater part of her strength; that Louisiana could indemnify France for all her losses; that when an inter-ocean canal should be cut through the Isthmus of Panama, Louisiana, being 529 on the track of trade thus opened up, would assume an importance of inestimable value to France; and that, if it were necessary to abandon St. Domingo, Louisiana would take its place.

Napoleon terminated the conference without making his intentions known. The discussion had been prolonged far into the night. At daybreak he summoned Marbois, and had him read the dispatches that had just arrived from London. He was informed in them that naval and military preparations of every kind were being made with extraordinary rapidity. Upon hearing of England's preparation for war, Napoleon declared:

Irresolution and deliberation are no longer in season. I renounce Louisiana. It is not only New Orleans that I will cede; it is the whole colony, without any reservation. I know the price of what I abandon; and have sufficiently proved the importance that I attach to this province, since my first diplomatic act with Spain had for its object the recovery of it. I renounce it with the greatest regret. To attempt obstinately to retain it would be folly. I direct you to negotiate this affair with the envoys of the United States. Do not even wait the arrival of Mr. Monroe; have an interview this very day with Mr. Livingston. But I require a great deal of money for this war, and, I would not like to commence it with new contributions. For a hundred years France and Spain have been incurring expenses for improvements in Louisiana, for which its trade has never indemnified them. Large sums, which will never be returned to the treasury, have been lent to companies and to agriculturists. The price of all these things is justly due to us, If I should regulate my terms according to the value of these vast regions to the United States, the indemnity would

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have no limits. I will be moderate, in consideration of the necessity in which I am of making a sale. But keep this to yourself. I want fifty millions [francs], and for less than that sum I will not treat; I would rather make a desperate attempt to keep those fine countries. ...

Perhaps it may also be objected to me, that the Americans may be found too powerful for Europe in two or three centuries; but my foresight does not embrace such remote fears. Besides, we may hereafter expect rivalries among the members of the Union. The confederations that are called perpetual only last till one of the contracting parties finds it to his interest to break them, and it is to prevent the danger to which the colossal power of England exposes us, that I would provide a remedy.

Mr. Monroe is on the point of arriving. To this minister, going two thousand leagues from his constituents, the President must have given, after defining the object of his mission, secret instructions, more extensive than the ostensible authorization of Congress, for the stipulation of the payments to be made. Neither this minister nor his colleague is prepared for a decision which goes infinitely beyond anything that they are about to ask of us. Begin by making them the overture, without any subterfuge. You will acquaint me, day by day, hour by hour, of your progress. The Cabinet of London is informed of the measures adopted at Washington, but it can have no suspicion of those which I am now taking. Observe the greatest secrecy, and recommend it to the American ministers; they have not a less interest than yourself in conforming to this counsel. You will correspond with M. de Talleyrand, who alone knows my intentions. ... Keep him informed of the progress of this affair.*

* History of Louisiana, Barbé Marbois; American translation, 1830, pp. 274–277.

The import of this declaration was communicated to Talleyrand and soon bore fruit, for on the same day Talleyrand surprised Livingston with a new offer. Talleyrand asked Livingston whether the Americans wished to have the whole of Louisiana. Livingston replied that we only desired New Orleans and the Floridas. The French minister said that

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if they gave us New Orleans, the rest would be of little value, and wished to know what we would give for the whole. Pressed for an answer, Livingston declared that while it was a proposition he had not thought of, he supposed we should not object to a price of twenty million francs, if our claims were paid.† The conversation of Talleyrand at this interview would go to show that the resolution to sell Louisiana had been taken, and that now the negotiation was only a matter of price.

† Livingston to Madison, April 11, 1803; American State Papers, Foreign Relations, vol. ii, p. 552.

The proposition, thus suddenly made to Livingston quite confounded him. He had been endeavoring for a long time to bring the First Consul and his Secretary of Foreign Affairs to some definite proposal with regard to the Louisiana territory, but nothing had been gained, although he had written and talked much upon the question. Neither Talleyrand nor Napoleon could charge that he had been in any sense negligent in his duties in this regard. Livingston endeavored, on the following day, April 12th, to reap the fruits of his labors by an interview with Talleyrand, without the assistance of Monroe. Monroe had just come upon the scene, but had not as yet conferred with Livingston, nor had he been presented to any of the French officials. He had that very day reached 531 Paris. Livingston attempted to close the matter up more definitely with Talleyrand, but was unable to do so. The astute Frenchman declared that his proposition was only personal, and that he did not have proper authority to make it binding, and finally excused himself on the ground that, as Louisiana was not yet theirs, he could make no terms for its sale.*

* Livingston to Madison, April 13, 1803, midnight.

In this same letter Livingston states that Monroe passed April 13th with him in examining documents; that while Monroe and several other gentlemen were at dinner with him, he observed the Minister of the Treasury, Marbois, walking in the garden; and that, upon invitation, Marbois came in while they were taking coffee. After his being some time there,

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Livingston and he strolled into the next room, “when,” says Livingston, “he told me he heard that I had been at his house two days before, when he was at St. Cloud; that he thought I might have something particular to say to him, and had taken the first opportunity to call on me. I saw that this was meant as an opening to one of those free conversations which I had frequently had with him. ... He went away, and, a little after, when Mr. Monroe took leave, I followed him.”

The conversation of the leading American and the leading French negotiator of the treaty, as stated in this midnight letter, forms one of the most interesting chapters in diplomatic history. It appears that after a social cup of coffee these two representatives of two great nations practically settled the purchase of half a continent. Both Livingston and Marbois treated each other with perfect frankness and candor, and it is owing to this friendly and informal conversation that the terms of the treaty were settled so easily and amicably. It is certainly true in this instance that the after-dinner coffee and cigars figured as prominently in the negotiations as did the laborious and painstaking diplomacy of Monroe and Talleyrand.

Up to the time of the actual opening' of the negotiations for the purchase of Louisiana, Livingston had no direct instructions from Madison, the Secretary of State, to purchase any part of the territory; and on April 17th, 1803, Livingston complained in a letter to him, that the commission contained power only to treat for lands on the east side of the Mississippi. “You will recollect that I have been long preparing 532 this government to yield us the country above the Arkansas. ... I am therefore surprised that our commission should have entirely lost sight of that object.”

The following week the ministers passed in attempting to reduce the price asked for Louisiana. They had frequent interviews with Marbois, and pressed, upon him to name as early a day as possible for the reception of Mr. Monroe at court. Marbois told Livingston that he would speak to the First Consul at once on the subject of their negotiations, and that he hoped some person would be appointed to treat with the American envoys, even

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before Mr. Monroe was presented. In consultation, Monroe and Livingston determined to offer fifty million francs, including the debt due to the citizens of the United States from France. "I reminded him of the Consul's promise to pay the debt. I placed in the strongest light his personal obligation on this subject; and desired him to urge it as an additional reason to conclude an agreement which would facilitate the means of doing it. The next morning ... I again called to see him. He told me that he had been to St. Cloud; that the Consul received his proposition very coldly; and that I might consider the business as no longer in his hands, since he had given him no further powers; that he had urged the Consul's promise relative to the debt, which he admitted, but said. at the same time, he did not think it had exceeded three millions, though my letter expressly mentioned twenty."*

* Livingston to Madison, April 17, 1803.

Livingston had used many and persistent endeavors to consummate the purchase and cession of this territory. He had addressed memorials and notes of great length to the Minister of Foreign Affairs and also to the First Consul, and while they answered these notes politely, the replies were not satisfactory. The vast territory to which. France had received title by her treaty with Spain formed the basis of many plans and calculations. Among the most favored projects of the First Consul had been the colonization of Louisiana. He saw in it a new Egypt; he saw in it a colony that was to counter-balance the eastern establishment of Britain; he saw in it a provision for his generals; and, what was more important in the then state of things, he saw in it a, pretense for the ostracism of suspected enemies. His advisers generally favored 533 the plans of the First Consul, and they would not hear of any disposition of it by sale. A commercial sale of the territory had never been relished by those who controlled the destinies of France. Livingston firmly believed that one of the reasons why a sale was considered at all, was that our debt would be fully and promptly paid. Without ready funds at hand to pay this debt, Napoleon saw that by selling Louisiana not only could he pay the debt, but at the same time raise sufficient funds to wage another war.*

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* Livingston to Madison, May 12, 1803.

Napoleon drew up a convention which he trusted to Marbois, which outlined certain propositions of the proposed treaty. One of these provided for the disposition of the territory about to be ceded: "In consequence of said cession, Louisiana, its territory ariel its proper dependencies, shall become part of the American Union, and shall form successively one or more states, on the terms of the Federal constitution." French commerce, at the same time, was to be fostered by the United States, and given all the privileges of American commerce, with a perpetual right of navigation and certain fixed points of entry. In addition, the United States were to assume all debts due to American citizens under the treaty of September 30th, 1800, and to pay in addition thereto one hundred million francs to France.

On April 27th Marbois brought the document proposed by Napoleon to a meeting of the three ambassadors at Mr. Monroe's headquarters. He was forced to admit that Napoleon's plan was unreasonable. He also produced, along with Napoleon's. scheme, a substitute of his own, somewhat more reasonable in its terms. Livingston endeavored to give American claims precedence. He desired to have these disposed of in ease the cession failed. Monroe thought differently about this matter, and they took Marbois' propositions with a view to considering them. After working over them for a day, the American ministers drew up a series of articles embodying their own ideas. On the 29th they gave Marbois the draft of their articles, proposing to offer fifty million francs to France, and twenty million on account of her debt to the citizens of the United States. Marbois replied that he would proceed only upon the condition that eighty millions were accepted as the price, and to this the American ministers assented; and, 534 with this change, Marbois took their proposition for reference to the First Consul. On the 30th of April, Marbois held the final and conclusive consultation with Napoleon, and at this meeting the terms between the parties were agreed upon.

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On the following day Monroe was formally presented at court, and dined at the Tuileries with Livingston. At that meeting Napoleon said nothing of the business, except that he agreed it should be settled without further delay, and on the same evening the American ministers had a final discussion of the subject with Marbois. The treaty and convention for the sixty million francs to be paid to France was actually signed on the 2d day of May. The convention respecting American claims took more time and was not signed until about May 9th. All of these documents were dated as of April 30th, the day on which Marbois had his final conference about the business with Napoleon. The treaty of cession was communicated by Livingston and Monroe to Mr. Madison on the 13th of May. In a letter accompanying it they explained some of the difficulties in accomplishing the transaction.

An acquisition of so great an extent was, we well know, not contemplated by our appointment; but we are persuaded that the circumstances and considerations which induced us to make it, will justify us in the measure to our government and country. Before the negotiation commenced, we were surprised that the First Consul had decided to offer to the United States, by sale, the whole of Louisiana, and not a part of it. We found, in the outset, that this information was correct, so that we had to decide, as a previous question, whether we would treat for the whole, or jeopardize, if not abandon, the hope of acquiring any part. On that point we did not long hesitate, but proceeded to treat for the whole. ... On mature consideration, therefore, we finally concluded a treaty on the best terms we could obtain for the whole. ...

The terms on which we have made this acquisition, when compared with the objects obtained by it, will, we flatter ourselves, be deemed advantageous to our country. We have stipulated, as you will see by the treaty and conventions, that the United States shall pay to the French government sixty millions of francs in stock bearing interest of six per cent.; and a sum not exceeding twenty millions more to our citizens, in discharge of the debts due them by France, under the convention of 1800.*

* Livingston and Monroe to Madison, May 13, 1803; American State Papers, Foreign Relations, vol. ii, p. 558.

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With the exception of the correspondence of the American ministers, there is no official report to show that the commissioners, of the respective governments met in formal conference, nor any record of their proceedings or discussions. No record was left of the date when the agreement was made, although it was one of the most important measures that has ever taken place in American history. There is a cloud of shadow and mystery surrounding it. There is no doubt that the treaty itself, as well as the statements of Livingston, evidences that the consummation of the treaty by all parties was hasty.

The treaty of cession did not attempt to define the boundaries of Louisiana. The words with reference to the boundaries were taken from Berthier's original treaty of retrocession: "Louisiana, with the same extent that now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other states." This statement was convenient for France and Spain. All that the United States knew, on the other hand, was that Louisiana, as France possessed it, had included a part of Florida and the whole of the Ohio valley as far as the Allegheny mountains and lake Erie.

The agreed price represented the sum of \$11,250,000, and the further sum of \$3,750,000 for the payment of debts due to the citizens of America, making a total of \$15,000,000 as the price to be paid. The second convention attached to the treaty, relating to the debts of indemnity due from France, was probably not drawn with the greatest degree of skill. This was originally drawn by Livingston and afterwards was modified by Monroe and Marbois, and was not signed until nearly a week after the treaty of purchase. The stipulations in the convention were arbitrary and the document was not accurate. It is probable that neither Livingston nor Monroe gave very careful attention to it. Its most serious defect was in the fact that the estimate of twenty million, francs was very much below the amount

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of the claims which the French admitted in the treaty; besides, there was no rule of apportionment, and the right of final decision was reserved to France in every case. Some of these defects may be accounted for 536 by the statement of Livingston that the moment was critical and the question of peace or war was in the balance, and that it was important to come to a conclusion before either scale preponderated. As the indemnity provided by this convention was considered to be a mere trifle compared with the great object of the treaty, namely, the purchase of the territory, and as it had already been delayed for a long time, the American ambassadors were ready to take it in almost any form.

This position of Livingston, as viewed in the light of subsequent history, was correct. He was right in securing his main object at any cost. It is true that he might have saved his reputation as a diplomatist if he had given more time to the convention relating to claims. He could, however, have gained no more than he did for the government. The two conventions of 1800 and 1803 gained for the United States two objects of great value. The first released the United States from treaty obligations which, if carried out, would require war with England. The second secured for the Union the whole west bank of the Mississippi and the province of New Orleans, together with all advantages that would subsequently flow therefrom. In return, the United States promised not to press the claims of its citizens against the French government, except to the amount of \$3,750,000, which represented one-fourth part of the purchase price of Louisiana. From almost every point of view, the negotiators, as well as their government, were to be congratulated upon the satisfactory terms then consummated.

In the many transfers of this territory, no complete or accurate boundary had ever been drawn. It now became necessary to define accurately the boundaries of the new territory. The treaty of cession had quoted the third article of the treaty of Ildefonso, and Louisiana had been ceded to the United States "with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the

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treaties subsequently entered into between Spain and other states.” This description is not definite nor certain,, and it could only be determined by the rules of international law.

The original province of Louisiana embraced not only the territory west of the Mississippi, but also West Florida to 537 the Perdido river. West Florida had already been ceded to France by Spain at the time of the treaty of St. Ildefonso, and by the treaty between Spain and the United States in 1795 the boundary line between the United States and West Florida had been established. This explains the last clause of the third article of the treaty. In the case of Johnson vs. McIntosh, Chief Justice Marshall says that in the discovery of this immense continent, the nations of Europe were eager to appropriate to themselves so much of it as they could respectively acquire; but, as all were in pursuit of the same object, it was necessary, in order to avoid war with each other, to establish a principle which all should acknowledge as the law by which the right of acquisition should be regulated; The principle thus adopted was that discovery gave title to the government by whose subjects or by whose authority it was made, against all other European governments, which title might be consummated by possession. France rested her title on the vast territory she claimed in America on discovery. It was on this ground that she claimed Louisiana, through the discovery of La Salle in 1682.

After the protracted war between England and France, which was terminated by the treaty of Paris in 1763, France ceded to Great Britain all of Louisiana north of the Ohio and east of the Mississippi. This war was really one for supremacy in the western world. When it was over, French power was at an end in America.

The American ministers at first had insisted on defining the boundaries, and Marbois had presented their request to Napoleon. He refused any information upon the matter of boundaries, and intentionally concealed the boundary he himself had defined. A knowledge at this time of the exact boundary claimed by France would have prevented a tedious and humiliating dispute. Being unable to secure any information from Napoleon as to the boundaries, Livingston first went to Marbois.

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I called this morning upon M. Marbois for a further explanation on this subject, and to remind him of his having told me that Mobile made a part of the cession. He told me that he had no precise idea on the subject, but that he knew it to be an historical fact, and that on 538 that only he had formed his opinion. I asked him what orders had been given to the prefect who was to take possession, or what orders had been given by Spain, as to the boundary, in ceding it. He assured me that he did not know, but that he would make inquiry.

Afterward Livingston went to Talleyrand for the same purpose.

I asked the minister what were the east bounds of the territory ceded to us. He said he did not know; we must take it as they had received it. I asked him how Spain meant to give them possession. He said, 'According to the words of the treaty.' 'But what did you mean to take?' 'I do not know.' 'Then you mean that we shall construe it in our own way?' 'I can give you no direction; you have made a noble bargain for yourselves, and I suppose you will make the most of it.'*

* Livingston to Madison. May 20. 1802; American State Papers, Foreign Relations, vol. ii, p. 561.

The answer of Talleyrand would not have been different, even if Livingston had known that Victor's instructions received from Decres, which began by fixing the very boundaries under discussion, were still in the desk of the astute diplomat.

The western boundaries of the purchase were not more certain. There were joint claims of France and Spain to the territory lying west of the Sabine river. France based her claims upon the occupation of La Salle, and Spain upon the general extent of her Mexican possessions. In acquiring Louisiana, the United States obtained the rights of France to the regions west of the Sabine. At the time of the purchase the western boundary of Louisiana was the Rio Bravo or Rio Grande river, if we concede that La Salle, in taking possession of

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the Bay of St. Bernard, carried rights to the great river which was midway between his post and the nearest Spanish settlement at Panuco. Jefferson held that this claim was valid.†

† Letter of Jefferson to John Melish, the geographer.

It was a question, however, which remained in dispute until 1819, when the United States abandoned all claims west of the Sabine. According to this treaty, the boundary line between the territory of Spain and that of the United States was to run from the mouth of the Sabine river along its west bank to the 32nd degree of latitude; thence due north 539 to the Red river; thence westward along that river to the 100th degree of longitude west from London; thence north to the Arkansas river; thence along its southern bank to the 42nd degree of latitude; and thence west along that parallel of latitude, to the South sea.

The northern boundary of the Louisiana Purchase was, at the time of the making of the treaty, admitted to be the source of the Mississippi. It had been assumed by the treaty of 1783 that this source was northwest of the Lake of the Woods and beyond the 49th degree of north latitude, and Pickering, in a memoir to Jefferson, intended that the boundary west from the Lake of the Woods to the Mississippi should be on that parallel. In, 1818 a convention of Great Britain, recognizing the fact that the "most northwestern point" of the Lake of the Woods might be distant from the 49th parallel, provided that the line from that point should be due north or south, as was required, until it struck that parallel, and thence westward on that parallel to the crest of the Rocky or Stony mountains. This line was subsequently agreed upon in the Webster-Ashburton treaty of 1842. There has been considerable controversy as to the northwestern limits of the Louisiana Purchase, as to whether or not any part of the territory west of the Rocky mountains was included in the treaty of cession.

Marbois, in his History of Louisiana, published twenty-six years after the treaty by which the United States acquired Louisiana, says: "The shores of the western ocean were certainly not included in the cession; but the United States are already established

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there.” He further states that the boundaries were uncertain, and that in his conference with Napoleon he spoke to him of the obscurity of that article of the treaty, and the inconvenience of a stipulation so uncertain, to which Napoleon replied, “If an obscurity did not already exist, it would perhaps be good policy to put one there.”*

* Marbois' History of Louisiana, p. 286.

The map which accompanied this work of Marbois, in its original publication in Paris, showed the territory extending from the Mississippi to the Pacific ocean, as the “Acquisition of the United States by the treaty and by its results.” This 540 would seem to imply that the whole territory, in the mind of Marbois, was not acquired by the treaty. General Stoddard, who took possession of Upper Louisiana in March, 1804, takes substantially the same view. In giving the boundaries of the territory, he says that it is bounded “south on the Gulf of Mexico; west, partly on the Rio Bravo, and partly on the Mexican mountains; north and northwest, partly on the Shining mountains [Rocky mountains], and partly on Canada [New France]; east on the Mississippi from its source to the thirty-first degree; thence extending east on the line of demarkation to the Rio Perdido; thence down that river to the Gulf of Mexico.”*

* Stoddard's Sketches of Louisiana, 1812, p. 148.

The French apparently never actually claimed as far as the Pacific, but many authorities have held, that the right of contiguous territory would give to the United States the entire country west of the Rocky mountains. Whatever may have been the boundaries of the territory ceded to us by France, it was all comprised and included under the name of Louisiana.

The history in brief of the transfers of the territory so named is as follows: that La Salle, under a royal commission from Louis XIV, discovered, the mouth of the Mississippi in 1682; that in the name of that sovereign he claimed the river and all its tributaries and all the country watered by those streams, under the name of Louisiana; that the country was

explored and occupied from the mouth of the Mississippi to its source; that on the 14th of September, 1712, Louis XIV granted this territory to Crozat, declaring that the edicts, ordinances, and customs of Paris should be observed; that afterwards, the assignee of Crozat surrendered the country back to the king; that on the 3d of November, 1762, France ceded to Spain all of Louisiana west of the Mississippi river, and all east of that stream and south of the 31st degree of north latitude, including thus the province of New Orleans; that in 1800 Spain retroceded the same country to France, by the treaty of St. Ildefonso, except as the territory may have been changed by the treaties made by Spain; and that on the 30th day of April, 1803, this same territory was ceded to the United States, and is known in our history as the Louisiana Purchase.

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TERRITORIAL GOVERNMENTS.

Not only was the area which now comprises the State of Minnesota partially embraced in the Northwest Territory ceded to the United States by Virginia in 1783, but that part was subsequently included successively in the territories of Indiana, Illinois, Michigan, and Wisconsin. The other and larger part of Minnesota, west of the Mississippi, was in like manner successively a part of the territories of Louisiana, Missouri, Michigan, Wisconsin, and Iowa.

On December 20th, 1783, the legislature of Virginia passed an act to authorize the delegates of that state in Congress to convey to the United States all the rights of that commonwealth to the territory northwest of the Ohio river. This act empowered the representatives of that state in Congress, by proper deed or instrument in writing, to convey and make over to the United States for the benefit of said states, all right, title, and claim, as well of soil as jurisdiction, which the State of Virginia had to the territory or tract of country, within the limits of the Virginia charter, which was situated northwest of the Ohio river. The conditions of cession were that the territory so ceded should be laid out and formed into states of suitable extent and territory; that the states so formed should

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be distinct republican states, and admitted members of the Union, having the same rights of sovereignty, freedom, and independence as the other states; and that the necessary expenses incurred by Virginia in subduing the British possession or in acquiring any part of the territory so ceded should be fully reimbursed by the United States, and that these expenses should be arranged by three commissioners. The deed of cession thus provided for was made on the 1st day of March, 1784, by Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, the delegates then in Congress from Virginia.

After Congress decided to divide the Northwest Territory into not more than five nor less than three states, as proposed in article five of the Ordinance of 1787, the State of Virginia ratified such action of Congress in 1788 by a special act. This was to avoid any difference of interpretation that might arise from the size of the new states as provided by the original act of cession passed by Virginia in 1784.

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Pursuant to an act of Congress approved April 30th, 1802, the people of the eastern division of the territory northwest of the Ohio river, under the name of the State of Ohio, were permitted to form a constitution for state government.

The remaining portion of the Northwest Territory had been constituted a separate territory on May 7th, 1800, and was known as Indiana Territory. On February 3rd, 1809, Indiana Territory was divided into two separate governments, and all of that territory which lay west of the Wabash river and a direct line drawn from the Wabash river and Post Vincennes due north, with all other territory lying between the United States and Canada, constituted a separate territory called Illinois.

By an act of Congress passed January 11th, 1805, all that part of Indiana Territory Which lay north of a line drawn east from the southern bend or extremity of lake Michigan until it should intersect lake Erie, and east of a line drawn from the said southerly bend through the middle of lake Michigan to its northwest extremity, and thence due north to the

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northern boundary of the United States, was, for the purpose of government, constituted a separate territory, called Michigan.*

* The boundaries of Michigan as established by this act were necessarily changed by the acts of Congress approved April 9th, 1816, June 18th, 1818, June 28th, 1834, and April 20th, 1836. The act of 1818 extended the territory westward to the Mississippi river, and the act of 1834 added the territory between the Mississippi river on the east and the Missouri and White Earth rivers on the west. Michigan territory then extended from Lakes Erie and Huron westward to the Missouri river. and from the States of Ohio, Indiana, Illinois, and Missouri. northward to the British dominions.

When the territorial government of Wisconsin was formed by an act of Congress approved April 20th, 1836, it included the whole of the present State of Minnesota.†

† The Territory of Wisconsin was bounded as follows: On the east, by a line drawn from the northeast corner of the State of Illinois, through the middle of lake Michigan, to a point in the middle of said lake and opposite the main channel of Green Bay, and through said channel and Green Bay, to the mouth of the Menomonie river; thence through the middle of the main channel of said river, to that head of said river nearest to the Lake of the Desert; thence in a direct line to the middle of said lake; thence through the middle of the main channel of the Montreal river, to its mouth; thence with a direct line across Lake Superior, to where the territorial line of the United States last touches said lake northwest; thence on the north, with the said territorial line, to the White Earth river; on the west, by a line from the said boundary line following down the middle of the main channel of White Earth river, to the Missouri river, and down the middle of the main channel of the Missouri river to a point due west from the northwest corner of the State of Missouri; and on the south, from said point, due east to the northwest corner of the State of Missouri: and thence with the boundaries of the States of Missouri and Illinois, as already fixed by acts of Congress.

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By an act of Congress approved March 26th, 1804, the territory acquired by the Louisiana Purchase was divided into the territories of Louisiana and Orleans. In the original act the former was designated as the "District" of Louisiana; but a supplementary act of Congress approved March 3rd, 1805, names it the Territory of Louisiana. By an act of Congress approved June 4th, 1812, its name was changed to the Territory of Missouri.

In 1834, Congress passed an act relative to certain parts of the Louisiana Purchase, as follows: "Be it enacted, etc., That all that part of the territory of the United States bounded on the east by the Mississippi river, on the south by the State of Missouri, and a line drawn due west from the northwest corner of said state to the Missouri river; on the southwest and west by the Missouri river and the White Earth river, falling into the same; and on the north by the northern boundary of the United States, shall be, and hereby is, for the purpose of temporary government, attached to, and made a part of, the Territory of Michigan, and the inhabitants therein shall be entitled to the same privileges and immunities, and be subject to the same laws, rules, and regulations, in all respects, as the other citizens of Michigan territory." This was the first special provision made for the government of that portion of the Territory of Missouri not included within the boundaries of the State of Missouri, which had been defined by the act of Congress approved March 6th, 1820.

When the territory of Wisconsin was formed, as before noted, in 1836, it included this part of the Louisiana Purchase. Again, after two years more, when the territorial government of Iowa was formed by an act of Congress approved June 12th, 1838, its boundaries included the same part of the present state of Minnesota, west of the Mississippi, which during the preceding four years had been thus successively under the jurisdiction of Michigan and Wisconsin. The act of Congress forming Iowa declares that "all that part of the present territory of Wisconsin which lies west of the Mississippi river, and west of a line drawn due north from the headwaters or source of the Mississippi to the territorial line,

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shall, for the purposes of temporary government, be and constitute a separate territorial government by the name of Iowa.”

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Congress, on March 3rd, 1849, passed an act providing for the territorial government of Minnesota. The Territory of Minnesota extended west beyond the boundary of the present State, and included parts of both North and South Dakota. The promoters of the interests of Minnesota also desired and attained the incorporation of a part of the Northwest Territory, with that larger tract of the Louisiana Purchase, to form the new territory.

On the west of the St. Croix river and extending to the Mississippi river, there lay a remnant of the Northwest Territory, out of which, by a provision of the Ordinance of 1787, only five states could be formed. After Iowa was admitted as a state, the region north of its northern line and west of the Mississippi, formerly belonging to Iowa as a territory, was known as the Indian country. The Mississippi, from the time of formation of the Territory of Iowa, was the recognized western boundary line of Wisconsin Territory. In the various bills that originated in Congress, and in the two conventions held in Wisconsin to adopt a state constitution, the question of the western boundary of Wisconsin was a leading one. There were many propositions advocated, both in Wisconsin and in Congress. One was to include the entire country east of the Mississippi, and east of a line drawn from its source north to the British possessions, within the new state; another was to make the Rum river the western boundary. thence extending to Lake Superior: another made the St. Croix river the western boundary; and still another, the Chippewa river. It was argued, by those who favored the proposition first noted, that the Ordinance of 1787 made it compulsory to limit the entire Northwest Territory to five states. On the other hand, it was claimed that the fifth and last state to be organized out of the Northwest Territory could be restricted in its boundary, so that a portion of the territory east of the Mississippi could be taken in connection with a portion of the territory west of that river and north of Iowa to make a future state, without in any way violating the provisions of the Ordinance of 1787. In the end this view was carried out, but not before many disputes and contentions arose. A

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compromise was finally reached between the contending factions, and the boundary line of the St. Croix river was determined upon. 545 This was approved by the constitutional convention, and was confirmed by a vote of the citizens of Wisconsin. It was finally accepted and approved by Congress in admitting the state to the Union.

When Minnesota was organized as a territory in 1849, its boundaries were fixed in the Enabling Act and extended on the west to the Missouri river.* The territory at that time was little more than a wilderness; and the Indian title to the lands upon the west bank of the Mississippi, from Iowa to Lake Itasca, had not been extinguished.

* The boundaries of Minnesota Territory were designated in this act as follows: "Beginning in the Mississippi river, at the point where the line of forty-three degrees and thirty minutes of north latitude crosses the same; thence running due west on said line, which is the northern boundary of the state of Iowa, to the northwest corner of the said state of Iowa; thence southerly along the western boundary of said state to the point where said boundary strikes the Missouri river; thence up the middle of the main channel of the Missouri river to the mouth of the White Earth river; thence up the middle of the main channel of the White Earth river, to the boundary line between the possessions of the United States and Great Britain; thence east and south of east, along the boundary line between the possessions of the United States and Great Britain, to Lake Superior; thence in a straight line to the northernmost point of the state of Wisconsin in Lake Superior; thence along the western boundary line of said state of Wisconsin, to the Mississippi river; thence down the main channel of said river to the place of beginning."

Under successive acts of Congress the Louisiana Purchase had been divided into various territories. By an act of Congress, approved March 26th, 1804, the southern part of the Louisiana Purchase was constituted as the territory of Orleans, its northern boundary on the east side of the Mississippi being at the south line of the Mississippi Territory, and on the west side of the river at the 33rd degree of north latitude. The residue of the Louisiana Purchase was called the District of Louisiana, and was placed under the jurisdiction of

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Indiana Territory. By a subsequent act of March 3rd, 1805, the District of Louisiana was designated by the name of the Territory of Louisiana. A governor was appointed to serve three years, and a secretary for four years, and the legislative power of the territory was vested in the governor and three judges or a majority of them.

By an act approved June 4th, 1812, Congress changed the name of Louisiana Territory to Missouri, and provided more fully for its territorial government. The executive officers were the governor and secretary, for three and five years respectively. The legislative power was vested in a general assembly consisting of the governor, a legislative council of nine 35 546 members appointed by the president, for five years, five of whom were to constitute a quorum, and a house of representatives elected by the people to serve for two years. The judicial power was vested in a superior court and such inferior courts as would be found necessary. Among the provisions of this act we find two that seem worthy of mention. One of these shows that the principle of the government holding public lands was fully understood and approved at this time. It reads as follows: "The general assembly shall never interfere with the primary disposal of the soil by the United States." The other enactment referred to taxation, and provided that "the lands of non-resident proprietors shall never be taxed higher than those of residents."

ADMISSION OF MINNESOTA TO THE UNION.

On December 24th, 1856, there was a bill introduced into Congress by Henry M. Rice, delegate from the Territory of Minnesota, authorizing the people of that territory to form a constitution. The bill was referred to the Committee on Territories, of which Galusha A. Grow of Pennsylvania was chairman. A substitute bill, which afterwards became the Enabling Act, defined the boundaries of the proposed state as they now exist.* This act changed the boundaries somewhat from those provided by the bill of Mr. Rice. John S. Phelps, of Missouri, in commenting upon the boundaries of the proposed state, declared that, since five states had already been formed from the Northwest Territory, it would be

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a violation of the Ordinance of 1787 to incorporate a part of that territory into a new state. Advocates of the measure, however, did not look upon it in that light. The bill was brought

* "Beginning at the point in the center of the main channel of the Red river of the North, where the boundary line between the United States and the British possessions crosses the same; thence up the main channel of said river to that of the Bets des Sioux river; thence up the main channel of said river to Lake Travers; thence up the center of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone lake; thence through its center to its outlet; thence by a due south line to the north line of the State of Iowa; thence east along the northern boundary of said state to the main channel of the Mississippi river; thence up the main channel of said river, and following the boundary line of the State of Wisconsin, until the same intersect, the Saint Louis river; thence down said river to and through Lake Superior, on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and the British possessions; thence up Pigeon river, and following said dividing line, to the place of beginning." Congressional Globe, vol. 43, Appendix, p. 402.

547 to vote with very little debate, and was passed by 97 in favor to 75 against it.

In the Senate the debate was more prolonged and somewhat acrimonious. Senator Thompson, of Kentucky, made a speech of strenuous opposition, in which the fact that he was a partisan upon the question of slavery distinctly appeared. When Minnesota asked for admission to the Union two opposing forces were contending for supremacy in the territory secured by the Louisiana Purchase. The party in favor of slavery were zealous to maintain their rights, and to reserve as much as possible of the new territory for the propagation of their peculiar institution. Previous to the admission of California, in 1850, which was the last state received into the Union before Minnesota, there were fifteen states in which the institution of slavery was permitted and the same number in which it was prohibited by law. This great contest was renewed with increased vigor by the Kansas-Nebraska bill of 1854; and when, two years afterward, Minnesota applied for

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admission to the Union, the pro-slavery and the anti-slavery forces were striving in every way to gain the mastery in Kansas. Senator Thompson said:

These Minnesota men, when they get here and see my friend from Michigan [Cass] and my friend from Iowa [Jones] struck down, will grapple up their bones from the sand, and make handles out of them for knife blades to cut the throats of their Southern brethren. I want no Minnesota senators. ... I know some men talk about annexing Canada and all New France; but I hope that, when they come in, we shall go out. I do not wish to have any more of Mexico annexed, unless you annex it by a treaty so controlling its regulations and municipal institutions as to erect it into a slave State. The equilibrium in the Senate is destroyed already. There is now an odd number of States, and the majority is against the slave-holding States. I want no hybrid, speckled mongrels from Mexico, who are, free-state people. It is bad enough to have them from New England, Christianized and civilized as they are. ... My notion of governing the territories is, that they ought to be governed by a proconsul, and pay tribute to Caesar. I would not puff them up with Treasury paper or plunder in the way of public lands, like an Austrian horse that is sleek and bloated with puff, instead of real fat and strength, by putting arsenic in his food. Are you to stall-feed the people in these Territories? No, sir. I would treat them differently. Like boys that get too big for their breeches, they ought to have rigid discipline administered to 548 them; they ought to be made to know their place, and constrained to keep it. We are told of there being two hundred thousand people in Minnesota. I do not care if there are five hundred thousand. ... Minnesota is undoubtedly a portion of the Louisiana Purchase. ... This, it seems to me, under the treaty of Louisiana, is incontestably slave territory.*

* Congressional Globe, vol. 43, p. 850.

It is worthy of notice that the principles laid down in the Ordinance of 1787 dominated all of the state papers relating to the admission of Minnesota to the Union. The provisions of that ordinance are clearly to be found in the organic act for the establishment of the territorial government, passed March 3rd, 1849, as also in the act authorizing the state government,

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passed February 26th, 1857; and finally they were embodied in the constitution of the state itself. We find, of the main articles of the Ordinance of 1787 which have been thus preserved article one, referring to religious belief; article two, forming the bill of rights of the people; and article three, relating to education and good government.

It is also noteworthy that these same provisions, which related to all the Northwest Territory under the Ordinance of 1787, have passed over to, and have been dominant in, the constitutions and governments of almost all the states that have been carved out of the Louisiana Purchase. This fact alone would seem to show the great importance and enduring character of the principles laid down in the ordinance itself. The territory which accrued to the United States by the cession of Great Britain in 1783 was not nearly so extensive as that obtained from France in 1803, yet the principles early laid down for the government of the smaller acquisition have prevailed in the commonwealths formed from either. Thus the Ordinance of 1787 became a protecting aegis which extended its authority and power far beyond the limits to which it originally applied. This is clearly seen in the state of Minnesota, which formed a connecting link binding parts of the two great cessions into a single commonwealth; but, if further proof were required, it would be discovered in the constitutions of nearly every state between the Mississippi and the Pacific.